

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF
1964 FOR CERTAIN EMPLOYEES, ¹ as amended ²

[78 Stat. 1043, Pub. L. 88-643, October 13, 1964, 50 U.S.C.A. 403 Note;³

82 Stat. 902, Pub. L. 90-539, September 30, 1968;

83 Stat. 847, Pub. L. 91-185, December 30, 1969;

84 Stat. 1872, Pub. L. 91-626, December 31, 1970;

87 Stat. 65, Pub. L. 93-31, May 8, 1973;

87 Stat. 908, Pub. L. 93-210, December 28, 1973;

90 Stat. 929, Pub. L. 94-361, July 14, 1976;

90 Stat. 2467, Pub. L. 94-522, October 17, 1976;

96 Stat. 1142, Pub. L. 97-269, September 27, 1982;

98 Stat. 3298, Pub. L. 98-618, November 8, 1984;

Executive Orders under section 292, Guide, Part XV]

AN ACT

To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TITLE AND DEFINITIONS

Part A—Title

SECTION 101. This Act may be cited as the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees."

Part B—Definitions

Except as otherwise provided in section 302 of this Act,

SEC. 111. When used in this Act, the term

(1) "Agency" means the Central Intelligence Agency;

(2) "Director" means the Director of Central Intelligence;

(3) "Qualifying service" means service performed as a participant in the system, or in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203;

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(4) "Fund balance" means the sum of

- (a) the investments of the fund calculated at par value; and
- (b) the cash balance of the fund on the books of the Treasury;

(5) "Unfunded liability" means the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to this Act, and to their survivors, over the sum of

- (a) the present value of deductions to be withheld from the future basic salary of participants currently subject to this Act and of future Agency contributions to be made in their behalf; plus
- (b) the present value of Government payments to the fund under section 261(b) and (c) of this Act; plus
- (c) the fund balance as of the date the unfunded liability is determined; and

(6) "Normal cost" means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.

TITLE II - THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Part A Establishment of System

Rules and Regulations

✓ SEC. 201. (a) The Director may prescribe rules and regulations⁴ for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, referred to hereafter as the system; such rules and regulations to be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before they take effect.⁵

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.⁶

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947, as amended (50 U.S.C. 403(d)(3)), that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 [now 551] et seq.) or any

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other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court.

Establishment and Maintenance of Funds

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability fund is referred to hereafter as the fund.

Participants

SEC. 203. The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.

Annuitants

SEC. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, former spouses, widows, widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this ~~Act~~ ^{Title}.

(b) When used in this ~~Act~~ ^{Title} the term

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least one year immediately preceding his death or is the mother of issue by marriage to the participant.

(2) "Widower" means the surviving husband of a participant who was married to such participant for at least one year immediately preceding her death or is the father of issue by marriage to the participant.

(3) "Child," * for the purposes of sections 221 and 232 of this ~~Act~~ ^{Title}, means an unmarried child, including (i) an adopted child or a child who

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lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant's death, and (ii) a stepchild or recognized natural child" who lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support, or such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-second birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purposes of this paragraph and section 221(e) of this ^{TELE} Act to have attained the age of twenty-two on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Director that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim. The term "child," for purposes of section 241, shall include an adopted child and a natural child but shall not include a stepchild.

(4) "Former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this ^{TELE} Act, at least five years of which were spent outside the United States by both the participant and the former spouse.

Part B - Compulsory Contributions

Except as provided in subsection d,

SEC. 211. (a) Seven per centum of the basic salary received by each participant shall be contributed to the fund for the payment of annuities, cash benefits, refunds and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund shall be deposited by the Agency to the credit of the fund.

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(b) Each participant shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed thirty-five years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b), and any balance not so required shall be refunded in a lump sum to the participant after separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a current spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivor benefits for a current or former spouse or spouses.

d. See Amendment.

Part C - Computation of Annuities "

Computation of Annuities for Other Than Former Spouses

SEC. 221. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest three consecutive years of service (or, in the case of an annuity computed under section 232 and based on less than three years, over the total service), for which full contributions have been made to the fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251 and 252. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. Each annuity shall be stated as an annual amount, one twelfth of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued

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(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse, if the election is made (i) before the end of the 12-month period beginning on the date of the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement of the participant.

(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(4).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor

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annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

(c)(1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of: (i) 60 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$900; or (iii) \$2,700 divided by the number of children.

(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (1) 75 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$1,080; or (iii) \$3,240 divided by the number of children.

(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) " The commencing date of an annuity payable to a child under paragraph (c) or (d) of this section, or (c) or (d) of section 232, shall be deemed to be the day after the annuitant or participant dies, with payment beginning on that day or beginning or resuming on the first

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day of the month in which the child later becomes or again becomes a student as described in section 204(b)(3), provided the lump sum credit, if paid, is returned to the fund. Such annuity shall terminate on the last day of the month before (1) the child's attaining age eighteen unless he is then a student as described or incapable of self support, (2) his becoming capable of self support after attaining age eighteen unless he is then such a student, (3) his attaining age twenty-two if he is then such a student and not incapable of self-support, (4) his ceasing to be such a student after attaining age eighteen unless he is then incapable of self support, (5) his marriage, or (6) his death, whichever first occurs.

(e)(1) The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

(2) An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests in effect during any one calendar year.

(3) Subject to paragraph (2) of this subsection, an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Director.

(4) This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a state by the Director shall be repaid by the State in accordance with regulations issued by the Director.

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(5) For the purpose of this subsection, "State" means a State, the District of Columbia, or any territory or possession of the United States.

(f)(1) Subject to the rights of former spouses under sections 221(b) and 222, any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as herein before provided, and designate in writing a person having an insurable interest (as that term is used in section 9(h) of the Civil Service Retirement Act (5 U.S.C. 2259(h) [now 8339(k)]) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under the paragraph shall be 55 per centum of the reduced annuity computed as described above.

(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received in the Agency within one year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.

(g)(1) In the case of remarriage on or after age sixty an annuity shall be payable if remarriage has occurred on or after July 18, 1966, and if the surviving wife or husband, immediately before such remarriage, was receiving an annuity from the Central Intelligence Agency Retirement and Disability Fund. The annuity of a surviving spouse terminated as a result of remarriage which occurred prior to age sixty and on or after July 18, 1966, shall be restored at the same rate commencing on the date the remarriage is dissolved by death, annulment, or divorce, if--

(A) the surviving spouse elects to receive this annuity instead of a survivor benefit to which he may be entitled, under this or another retirement system for Government employees, by reason of the remarriage; and

(B) any lump sum paid on termination of the annuity is returned to the fund.

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No annuity shall be paid by reason of this paragraph for any period prior to October 20, 1969. No annuity shall be terminated solely by reason of the enactment of this paragraph.

(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(h) In computing an annuity under this section the service credit of a participant who retires, except under section 231, on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by paragraph (a), the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average basic salary or annuity eligibility. The contribution specified in section 252 shall not be required for days of unused sick leave credited under this paragraph.

(i) Except as otherwise provided, the annuity of a participant shall commence on the first day of the month after separation from the service, or on the first day of the month after pay ceases and the service and age requirements for title to an annuity are met. With respect to those participants who serve three days or less in the month of retirement, the annuity will commence on the day after separation or the day after pay ceases and the service and age requirements for title to an annuity are met. The annuity of a participant involuntarily separated from the service, except for removal for cause on charges of misconduct or delinquency, or of a participant retiring due to a disability shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to an annuity are met. Any other annuity payable from the Fund shall commence on the first day of the month after the occurrence of the event on which payment thereof is based.

(j) An annuity payable from the fund on or after date of enactment of this provision [Dec. 31, 1970] shall terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs.

(k) For the purpose of an annuity computed under this section, the total service of any participant shall not include any period of civilian service on or after October 1, 1982, for which retirement deductions or

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deposits have not been made under section 252(b), unless the participant makes a deposit for such period as provided in section 252, or no deposit is required for such service as provided under Section 8334(g) of Title 5 of the United States Code, or under any statute.

(l)(1) Notwithstanding any other provision of this section, the monthly rate of annuity payable under subsection (a) of this section, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act [section 401 et seq. of Title 42].

(2) Notwithstanding any other provision of this section, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(4) This subsection shall not apply to the extent provided in section 222(d).

(m)¹ If a participant retiring under section 231 of this Act is receiving retired pay or retainer pay for military service (except that specified in section 252(e)) or Veterans Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under subsection (a) of this section, excluding credit for such military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of Title 5 of the United States Code, or the Veterans Administration pension or compensation in lieu of such

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retired or retainer pay, is less than the annuity that would otherwise be payable under Section 231, an amount equal to the difference shall be added to the annuity payable under subsection (a) of this Section.

(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Director shall issue regulations to provide for the application of paragraph (1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualified for an annuity under section 222(b).

(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(o) The Director shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (f)(2) and (n); and

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(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and sections 222, 223, and 234(c), (d), and (e).

(P) (1) *See amendment*

Computation of Annuities for Former Spouses

SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of creditable service.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title on the first day of the month after the divorce or annulment involved becomes final, whichever is later. The annuity of such former spouse and the right thereto terminates on

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph 4(B)).

(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed,

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in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant

(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

(7) No spousal agreement or court order under section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant. No such court order relating to an annuity under this subsection may be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by an spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

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(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

(B) Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue to reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 263(b) may provide for,

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an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

(3)(A) In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump-sum payment or installment payments to the fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)-

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that

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provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

(d) Section 221(1) shall not apply

(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

(2) to any annuity payable under subsection (c).

Election of Survivor Benefits for Certain Former Spouses

SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).

(c) An election under this section may provide for a survivor benefit based on all or any of that part of the annuity of the participant which

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is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 221(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2). Such reduction shall be effective as of—

- (1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or
- (2) November 15, 1982, in the case of an election under subsection (b)(2).

Part D—Benefits Accruing to Certain Participants ¹³

Retirement for Disability or Incapacity Medical Examination—Recovery

SEC. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2) and who has become disabled shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. A participant shall be considered to be disabled only if the participant is found by the Director to be unable, because of diseases or injury, to render useful and efficient service in the participant's position and is not qualified for reassignment, under procedures prescribed by the Director, to a vacant position which is in the Agency at the same grade or level and in which the participant would be able to render useful and efficient service. If the disabled or incapacitated participant is under sixty and has less than twenty years of service toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and age sixty. Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the

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provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

(d) Section 221(1) shall not apply

(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

(2) to any annuity payable under subsection (c).

Election of Survivor Benefits for Certain Former Spouses

SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).

(c) An election under this section may provide for a survivor benefit based on all or any of that part of the annuity of the participant which

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Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant or annuitant to competency or the appointment of a fiduciary, whichever is earlier.

(b)(1) In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade as provided in section 235. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date one year after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of this disability is satisfactorily established.

(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity is restored if in any calendar year the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement.

(c)(1) If a recovered or restored disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered except for service credit to have been

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separated within the meaning of paragraphs (a) and (b) of section 234 as of the date of termination of the disability annuity and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions or he may be placed by the Director in an involuntary retired status if he qualifies under the provisions of section 235(a). Retirement rights under this section shall be based on the provisions of this Act in effect as of the date the disability annuity was discontinued.

(2) If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his terminated disability annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than 80 per centum of the pay rate attached to the position from which he retired, his terminated disability (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary or voluntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 [now 8102] et seq.), covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any participant to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of any other person.

(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of

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September 7, 1916, as amended (5 U.S.C. 764 [now 8135], except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal employees' compensation fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

Death in Service

SEC. 232. (a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, his contributions to the fund, with interest at the rates prescribed in sections 241(a) and 281(a), shall be paid in the order of precedence shown in section 241(b).

(b) If a participant, who has at least eighteen months of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a widow or a widower, as defined in section 204, such widow or widower shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (i) 40 per centum of the participant's average basic salary, or (ii) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between his age at the time of death and age sixty. The annuity of such widow or widower shall commence on the date following death of the participant and shall terminate upon death or upon remarriage prior to attaining age sixty of the widow or widower (subject to the payment and restoration provisions of section 221(g)).

(c) If a participant who has at least eighteen months of service credit toward retirement under the system, excluding military or naval service

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that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(1). The child's annuity shall begin and be terminated in accordance with the provisions of section 221(e). Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though such wife or husband or child had not survived the participant.

(d) If a participant who has had at least eighteen months of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(2). The child's annuity shall begin and terminate in accordance with the provisions of section 221(e). Upon termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though that child had never been entitled to the benefit.

Voluntary Retirement

SEC. 233. Any participant in the system who is at least fifty years of age and has rendered twenty years of service may on his own application and with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of section 221 provided he has not less than ten years of service with the Agency of which at least five years shall have been qualifying service.

Discontinued Service Benefits

SEC. 234.(a) Subject to the limitations contained in subsections (c), (d), and (e), any participant who separates from the Agency after having performed not less than five years of service with the Agency, may upon separation from the Agency or at any time prior to becoming eligible for an annuity, elect to have his contributions to the fund returned to him in accordance with the provisions of section 241, or (except in cases where the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States) to leave his contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at the age of sixty-two years.

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(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section to receive a deferred annuity commencing at the age of sixty-two dies before reaching the age of sixty-two his contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

(c) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity under this Act and becomes entitled to receive a lump-sum payment under this section or section 241, a share of that lump-sum payment shall be paid to any former spouse of the participant in accordance with subsections (d) and (e).

(d) Unless otherwise expressly provided by an spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

(e) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant

(1) only upon written notification by the Director to a current spouse of the participant, if any; and

(2) only if the express written concurrence of that spouse has been received by the Director.

Mandatory Retirement

SEC. 235. (a) The Director may in his discretion place in a retired status any participant who has completed at least twenty-five years of

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service, or who is at least fifty years of age and has completed at least twenty years of service, provided such participant has not less than ten years of service with the Agency of which at least five shall have been qualifying service. A participant who is separated involuntarily from service, except by removal for cause on charges of misconduct or delinquency, is entitled to an annuity only if the participant has not declined a reasonable offer of another position for which he or she is qualified, which is not lower than two grades below his or her current position and which is in the same commuting area. Voluntary early retirements will be permitted only if a major reorganization, reduction in force, or transfer of function will result in a significant number of participants being separated or immediately reduced in pay. Participants retired under this subsection shall receive retirement benefits in accordance with the provisions of section 221.

(b) Any participant in the system receiving compensation at the rate of grade GS-18 or above shall be automatically separated from the Agency upon reaching the age of sixty-five. Any participant in the system receiving compensation at a rate less than grade GS-18 shall be automatically separated from the Agency upon reaching the age of sixty. Such separation shall be effective on the last day of the month in which a participant reaches the age sixty or sixty-five, as specified in this section, but whenever the Director shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. A participant separated under the provisions of this section who has completed five years of Agency service shall receive retirement benefits in accordance with the provisions of section 221 of the Act.

Limitation on Number of Retirements

SEC. 236. The number of participants retiring on an annuity pursuant to sections 233, 234, and 235 of this Act shall not exceed a total of four hundred during the period ending on June 30, 1969, nor a total of twenty-one hundred during the period beginning on July 1, 1969, and ending on June 30, 1974, nor a total of fifteen hundred during the period beginning on July 1, 1974, and ending on June 30, 1979.

Part E- Disposition of Contributions and Interest in Excess of Benefits Received

SEC. 241. (a) Whenever a participant becomes separated from the Agency, or is transferred to a position in which he is not subject to this

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Act, for at least thirty-one consecutive days without becoming eligible for an annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 percent per year to December 31, 1947, and 3 percent per year thereafter compounded annually to December 31, 1956, except as provided in section 281, shall upon application, be returned to him. The return of contributions shall be made only if the participant is not reemployed in a position in which he is subject to this Act at the time he files the application for refund and will not become eligible for an annuity within thirty-one days after filing such application. The receipt of the payment of the lump-sum credit by the participant voids all annuity rights under the Act based on the service on which the lump-sum credit is based, until the participant is reemployed in the service subject to the Act. The payment of the lump-sum credit shall include amounts deposited by a participant covering earlier service as well as any amounts deposited under section 252(h).

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at the rates provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

(2) If there be no such beneficiary to the surviving wife or husband of such participant;

(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

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(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b)(6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

Part F--Period of Service for Annuities

Computation of Length of Service

SEC. 251. For the purposes of this Act, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absences while receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based, and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States. A participant or former participant who returns to government duty after a separation shall have included in his period of service that part of the period of separation in which he was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based.

Prior Service Credit

SEC. 252. (a) A participant may, subject to the provisions of this section, include in his period of service

(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States prior to the date of the separation upon which title to annuity is based or active and honorable service in the regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.

(b) A participant may obtain prior civilian service credit in accordance with the provisions of paragraph (a)(1) of this section by making a

special contribution to the fund equal to the percentage of his basic annual salary for each year of service for which credit is sought specified with respect to such year in the table relating to employees contained in section 4(e) of the Civil Service Retirement Act (5 U.S.C. 2254(v) [now 8334(e)], together with interest computed as provided in section 4(e) of such Act (5 U.S.C. 2254(e) [now 8334(e)]). Any such participant may, under such conditions as may be determined in each instance by the Director, pay such special contributions in installments.

(c)(1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed at the rate of 3 per centum a year compounded annually) under such retirement system on behalf of the officer or employee shall be transferred to the fund and such officer or employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to his credit in the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.¹⁴

(2) If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed at the rate of 3 per centum a year computed annually) to the fund on his behalf shall be transferred to the fund of the other system and his total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to his credit in the fund of such other retirement system effective as of the date he becomes eligible to participate in such other retirement system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered prior to his becoming eligible for participation in such other system.

(3) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section, shall be required to make contributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to

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any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 4(c) of the Civil Service Retirement Act (5 U.S.C. 2254(c) [now 8334(c)] for contributions to the fund.

(4) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the fund in accordance with the provisions of paragraph (b) of this section.

(d) No participant may obtain prior civilian service credit toward retirement under the system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

(e)(1) A participant may obtain prior military or naval service credit in accordance with the provision of paragraph (a)(2) of this section by applying for it to the Director prior to retirement or separation from the Agency. (2) However, in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in section 301 of Title 38, United States Code), or is awarded under chapter 67 of Title 10 of the United States Code, the period of such military or naval service shall be included.

(3) Except as provided in paragraphs (1) and (2) of this subsection, the service of an individual who first becomes a Federal employee before October 1, 1982 shall include credit for each period of military service performed before the date of the separation on which the entitlement to an annuity under this subsection is based, subject to section 252(f); and the service of an individual who first becomes a Federal employee on or after October 1, 1982 shall include credit for:

- (i) each period of military service performed before January 1, 1957; and
- (ii) each period of military service performed after December 31, 1956, and before separation on which the entitlement to annuity

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under this section is based, only if a deposit (with interest, if any) is made with respect to that period as provided in subsection (h) of this section.

(f)(1) Notwithstanding any other provision of this section or section 253 any military service (other than military service covered by military leave with pay) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service upon which an annuity payable under this Act to such participant or to his widow or child is to be based, if such participant or widow or child is entitled (or would upon proper application be entitled) at the time of such determination, to monthly old-age or survivors benefits under section 202 of the Social Security Act, as amended (42 U.S.C. 402), based on such participant's wages and self-employment income. If in the case of the participant or widow such military service is not excluded under the preceding sentence, but upon attaining age sixty-two, he or she becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service upon which such annuity is based shall be redetermined, effective as of the first day of the month in which he or she attains such age, so as to exclude such service.

(2) The provisions of paragraph (1) above relating to credit for military service shall not apply to—

(A) any period of military service of a participant with respect to which he or she has made a deposit with interest, if any, under section 252(e) of this Act; or

(B) the military service of any participant who has been awarded retired pay on account of a service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war as that term is defined in section 301 of Title 38 of the United States Code.

(3) The annuity recomputation required by paragraph (1) above shall not apply to any individual who was entitled to an annuity under this section on or before September 8, 1982. Instead of an annuity recomputation, the annuities of such individuals shall be reduced at age 62 by an amount equal to a fraction of their Social Security benefit. This reduction shall be computed by multiplying their monthly Social Security benefit by a fraction, the numerator of which is their total military wages that were subject to Social Security deductions and the denominator of which is their total lifetime wages, including military wages, that were subject to Social Security deductions. The reductions

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so computed shall not be permitted to be greater than the reductions that will be required by paragraph (1) if that paragraph applied to the individual for that period. The new formula shall be applicable to all annuity payments payable after October 1, 1982, including annuity payments to those individuals who had previously reached age 62 and whose annuities had already been recomputed.

(g) For the purpose of survivor annuity, special contributions authorized by paragraphs (b), (c)(4), and (h) of this section may also be made by the survivor of a participant.

(h)(1) Each participant who has performed military service before the date of separation on which the entitlement to any annuity under this section is based may pay, in accordance with rules issued by the Director, to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of Title 37 of the United States Code to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide, or if the Director or his designee determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of

(A) October 1, 1982; or

(B) the date on which the participant making the deposits first becomes an employee of the Federal government shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (b) of this section.

(3) Any payment received by the Agency under this subsection shall be immediately remitted to the Office of Finance for deposit in the Treasury of the United States to the Credit of the CIARDS fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Director as the Director may determine to be necessary for the administration of this subsection.

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Credit for Service While on Military Leave

SEC. 253. (a) A participant who, during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered, for the purposes of this Act, as separated from his Agency position by reason of such military service, unless he shall apply for and receive a refund of contributions under this Act: *Provided*, That such participant shall not be considered as retaining his Agency position beyond December 31, 1956, or the expiration of five years of such military service, whichever is later.

(b) Contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Part G Moneys

Estimate of Appropriations Needed

SEC. 261. (a) The Director shall prepare the estimates of the annual appropriations required to be made to the fund, and shall cause to be made actuarial valuations of the fund at intervals of five years, or oftener if deemed necessary by him.

(b) Any statute which authorizes --

(1) new or liberalized benefits payable from the fund, including annuity increases other than under section 291 of this Act;

(2) extension of the coverage of this Act to new groups of employees; or

(3) increases in salary on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage or increase in salary is effective.

(c) There is hereby authorized to be appropriated to the fund each fiscal year, beginning with fiscal year 1977, such amounts as may be necessary to meet the amount of normal costs for each year which is not met by contributions under section 211(a).

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(d) There is hereby authorized to be appropriated to the fund each fiscal year such sums as may be necessary to provide the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service, less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 252(e), and not to exceed the following percentages of such amounts: 70 per centum for 1977; 80 per centum for 1978; 90 per centum for 1979; and 100 per centum for 1980 and for each fiscal year thereafter.

Investment of Moneys in the Fund

SEC. 262. The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in his judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances, and the income derived from such investments shall constitute a part of such fund.

Attachment of Moneys

SEC. 263. (a) Except as provided in subsection (b) of this section, none of the moneys mentioned in this Act shall be assignable either in law or equity, or be subject to execution, levy attachment, garnishment, or other legal process.¹⁵

(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.

Recovery of Payments

✓ SEC. 264. Recovery of payments under this Act may not be made from an individual when in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of his official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

Part II Retired Participants Recalled, Reinstated, or Reappointed in the Agency, or Reemployed in the Government.

Recall

SEC. 271. (a) The Director may, with the consent of any retired participant, recall such participant to duty in the Agency whenever he shall determine such recall is in the public interest.

(b) Any such participant recalled to duty in the Agency in accordance with the provisions of paragraph (a) of this section or reinstated or reappointed in accordance with the provisions of section 231(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the fund in accordance with the provisions of section 211. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of section 221.

C- Subsection (b) shall not apply to an annuitant who becomes subject to title II of this Act by reason of recall to service.

SEC. 272. Notwithstanding any other provision of law, a participant retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

Reemployment Compensation

SEC. 273. (a) Notwithstanding any other provision of law, any annuitant who has retired under this Act and who is reemployed in the Federal Government service in any appointive position either on a part-time or full-time basis shall be entitled to receive his annuity payable under this Act, but there shall be deducted from his salary a sum equal to the annuity allocable to the period of actual employment.¹⁶

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(b) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, including his annuity, payable in accordance with the provisions of this Act.

Part I—Voluntary Contributions

SEC. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum through December 31, 1984, and thereafter at the rate computed under Section 8334(e) of Title 5 of the United States Code, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

(1) returned to him in lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or

(4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in paragraph (3) above.

(b) The benefits provided by subparagraph (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

(c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the

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manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

(d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

Part J Cost-of-Living Adjustment of Annuities

SEC. 291. (a) On the basis of determination made by the Director pertaining to per centum change in the Price Index,¹⁷ the following adjustments shall be made:

(1) Except as provided in subsection (b) of this section, effective March 1 of each year each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change in the Price Index published for December of the preceding year, adjusted to the nearest one-tenth of one percent.

[(2) Omitted]

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) The first cost-of-living increase (if any) made under subsection (a) of this section to an annuity which is payable from the Fund to a participant who retires or to the widow or widower of a deceased participant whose annuity has not been increased under this subsection or subsection (a) of this section, shall be equal to the product (adjusted to the nearest one-tenth of one percent) of

(A) one-twelfth of the applicable percent change computed under subsection (a) of this section, multiplied by

(B) the number of months (counting any portion of a month as a month) —

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a widow or widower of a deceased annuitant whose annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 221(c)), which annuity commences the day after annuitant's death and after January 1, 1967, shall be increased by the total per

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centum increase the annuitant was receiving under this section at death; or if death occurred between January 1, 1967, and date of enactment, the per centum increase the annuitant would have received.

(3) For the purpose of computing the annuity of a child under section 221(c) that commences after October 31, 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 221(c) shall be increased by the total per centum increases allowed and in force under this section on or after such day, and, in case of a deceased annuitant, the items 60 per centum and 75 per centum appearing in section 221(c) shall be increased by the total per centum allowed and in force to the annuitant under this section on or after such day.

(4) The annuity of each surviving child receiving an annuity under section 221 immediately prior to November 1, 1969, shall be recomputed effective November 1, 1969, in accordance with paragraph (b)(2). No increase allowed and in force prior to such date under section 291 shall be included in the recomputation of any such annuity and this paragraph shall not operate to reduce any annuity.

(c) Any annuity increased under this section shall be decreased by the amount of increase in force and effect with respect to that annuity under section 291 prior to the date of enactment of this subsection.

(d) The term "price index" shall mean the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. The term "base month" shall mean the month of October 1966 for the first increase under section 291(a)(2) and thereafter the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase.

(e) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(f) The monthly installment of annuity after adjustment under this section shall be rounded to the next lowest dollar, except that such installment shall, after adjustment, reflect an increase of at least \$1.

(g)(1) An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of

(A) the maximum pay payable for GS-15 thirty days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual

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average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of Title 5 of the United States Code during the period

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the participant, the date of the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) For the purposes of paragraph (1) of this subsection "pay" means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.

Part K Conformity with Civil Service Retirement System

Authority to Maintain Existing Areas of Conformity Between Civil Service and Central Intelligence Agency Retirement and Disability Systems

SEC. 292.(a) Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, he may, by Executive order," extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which:

(1) amends subchapter III, chapter 83, title 5, United States Code, and is applicable to civil service employees generally, or

(2) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors."

Any such order shall extend such provisions of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

(b) Any provision of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith---

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(c) The President shall maintain, under the same conditions and in the same manner as provided

in subsection (a) and (b), existing conformity between the Federal Retirement System provided in Chapter 84 of title 5, United States Code, and the CIA Pension System provided in Title II of this Act

(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

(2) any prior provision of an Executive order issued under authority of this section.

See Table 3

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